

**PROCEEDING BEFORE THE HONORABLE JANE L. CLINE  
INSURANCE COMMISSIONER  
STATE OF WEST VIRGINIA**

**IN RE:  
DELTA DENTAL OF WEST VIRGINIA  
NAIC #12329**

**ADMINISTRATIVE PROCEEDING #  
11-MAP-02000**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES The Honorable Jane L. Cline, Insurance Commissioner of the State of West Virginia, and issues this Agreed Order which adopts the Report of Market Conduct Examination, directs corrective action and assesses a penalty as a result of findings in the Report of Market Conduct Examination for the examination of DELTA DENTAL OF WEST VIRGINIA (hereinafter "DELTA DENTAL") for the examination period ending June 30, 2010 based upon the following findings, to wit:

**PARTIES**

1. The Honorable Jane L. Cline is the Insurance Commissioner of the State of West Virginia (hereinafter the "Insurance Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapter 33 of the West Virginia Code, as amended.

2. DELTA DENTAL is a non-profit corporation operating as a dental service corporation in the State of West Virginia and is authorized by the West

Virginia Offices of the Insurance Commissioner to transact its business as permitted under Chapter 33 of the West Virginia Code.

3. This statutory market conduct examination was conducted and instituted as result and per the authority of West Virginia Code § 33-2-9.

#### **FINDINGS OF FACT**

1. A Market Conduct Examination concerning the operational affairs of DELTA DENTAL for the period ending June 30, 2010, was conducted in accordance with West Virginia Code § 33-2-9 by examiners duly appointed by the Insurance Commissioner.

2. On February 22, 2011, the examiner filed with the Insurance Commissioner, pursuant to West Virginia Code § 33-2-9(j)(2), a Report of Market Conduct Examination.

3. On February 22, 2011, a true copy of the Report of Market Conduct Examination was sent to DELTA DENTAL by certified and electronic mail and was received by DELTA DENTAL on February 28, 2011.

4. On February 28, 2011, DELTA DENTAL was notified pursuant to West Virginia Code § 33-2-9(j)(2) that it had thirty (30) days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner.

5. The Report of Market Conduct Examination included findings including, but not limited to, the following: three (3) passed standards with recommendations for future best practices concerning record management, responding to complaints and reconciliation of records with WVOIC. Additionally,

DELTA DENTAL failed four (4) standards out of forty-nine (49) including three (3) related to the handling of producer licensure and one (1) related to underwriting and rating.

6. On March 17, 2011, DELTA DENTAL responded to the Report of Market Conduct Examination ("DELTA DENTAL'S Response") and essentially did not dispute the facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination.

7. Within the referenced response of DELTA DENTAL to the Report of Market Conduct Examination, a recommendation was made to correct a non-substantive error on page 18 of the Report of Market Conduct Examination. Such amendment was made to the Report of Market Conduct Examination dated March 30, 2011 and will be provided to DELTA DENTAL contemporaneously with this executed agreed order.

8. DELTA DENTAL hereby waives additional notice and review of the Report of Market Conduct Examination, notice of administrative hearing, any and all rights to an administrative hearing, and to appellate review of any matters contained herein this Agreed Order.

9. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such and incorporated in the next section.

#### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over the subject matter of and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code § 33-2-9.

3. That DELTA DENTAL has incurred violations of West Virginia Code including but not limited to: §§33-12-18, 33-12-25 and 33-24-6(c)

4. The Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by DELTA DENTAL as well as all other provisions of regulation that DELTA DENTAL is subjected to by virtue of their Certificate of Authority to operate in the State of West Virginia.

5. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such and adopted in the previous section.

### **ORDER**

Pursuant to West Virginia Code § 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and DELTA DENTAL'S Response thereto, the Insurance Commissioner and DELTA DENTAL have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. The Parties have further agreed to the imposition of corrective action and an administrative penalty against DELTA DENTAL as set forth below.

It is accordingly **ORDERED** as follows:

(A) The Report of Market Conduct Examination of DELTA DENTAL for the period ending June 30, 2010, is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner.

(B) It is **ORDERED** that DELTA DENTAL will **CEASE AND DESIST** from failing to comply with the statutes, rules and regulations of the State of West

Virginia concerning any business so handled in this State and more specifically the provisions enumerated herein this Order and/or the Report of Market Conduct Examination adopted herein where applicable.

(C) It is further **ORDERED** that DELTA DENTAL shall continue to monitor its compliance with the West Virginia Code, the West Virginia Code of State Rules and all laws it is subject thereto.

(D) It is further **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, DELTA DENTAL shall file with the West Virginia Insurance Commissioner, in accordance with West Virginia Code § 33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY.

(E) It is further **ORDERED** that DELTA DENTAL shall ensure compliance with the West Virginia Code and the Code of State Rules. DELTA DENTAL shall specifically cure those violations and deficiencies identified in the Report of Market Conduct including providing appropriate restitution (where applicable) or other handling of the issue so as to bring the violations into compliance and conformity with the Commissioner's recommendations and any applicable law(s).

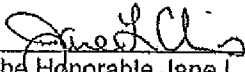
(F) It is further **ORDERED** that DELTA DENTAL shall file a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail DELTA DENTAL'S changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and

incorporate all recommendations of the Insurance Commissioner's examiners and address all violations specifically cited in the Report of Market Conduct Examination. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. DELTA DENTAL shall implement reasonable changes to the Corrective Action Plan if requested by the Insurance Commissioner within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Insurance Commissioner shall provide notice to DELTA DENTAL if the Corrective Action Plan is disapproved and the reasons for such disapproval within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan.

(G) The Insurance Commissioner has determined and it has been agreed by DELTA DENTAL and therefore, it is hereby **ORDERED** that DELTA DENTAL shall pay an administrative penalty to the State of West Virginia in the amount of Five Thousand Dollars (\$5,000.00) for non-compliance with the West Virginia Code as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty, and is due within **THIRTY (30) calendar days** upon execution of this Order.

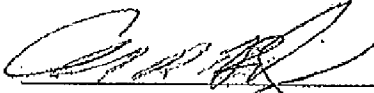
(H) It is finally **ORDERED** that all such review periods, statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All such rights are preserved by the Parties regarding any future action taken, if any, on such Order by the Commissioner against DELTA DENTAL.

Entered this 9<sup>th</sup> day of May, 2011.

  
The Honorable Jane L. Cline  
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On Behalf of the INSURANCE COMMISSIONER:

  
Andrew R. Pauley, Associate Counsel  
Attorney Supervisor, APIR

Dated: 5-2-11

On Behalf of DELTA DENTAL:

By: Katherine L. Watts  
[Print Name]

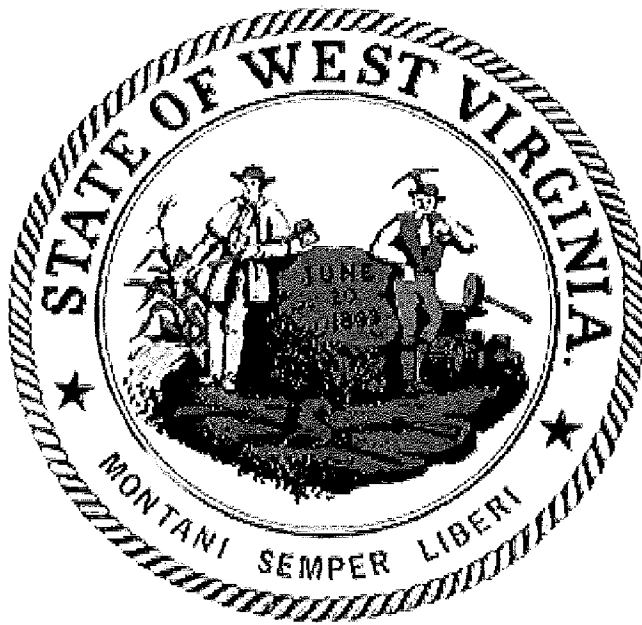
Its: Vice-President, Legal & Regulatory

Signature: Katherine L. Watts

Date: April 20, 2011

# **Report of Market Conduct Examination**

As of June 30, 2010



**Delta Dental of West Virginia**

One Delta Drive  
Mechanicsburg, PA 17055

**NAIC COMPANY CODE 12329**  
**Examination Number WV014-M23**

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March 30, 2011

The Honorable Jane L. Cline  
West Virginia Insurance Commissioner  
1124 Smith Street  
Charleston, West Virginia 25301

Dear Commissioner Cline:

Pursuant to your instructions and in accordance with W. Va. Code § 33-2-9, an examination has been made as of June 30, 2010 of the business affairs of

Delta Dental of West Virginia  
One Delta Drive  
Mechanicsburg, PA 17055

hereinafter referred to as the "Company" or "Delta Dental." The following report of the findings of this examination is herewith respectfully submitted.

## **SCOPE OF EXAMINATION**

The basic business areas examined were:

- A. Company Operations/Management
- B. Complaint Handling
- C. Marketing and Sales
- D. Producer Licensing
- E. Policyholder Services
- F. Underwriting and Rating
- G. Claims Handling

Each business area has standards that the examination measured. Some standards have specific statutory guidance, others have specific Company guidelines, and yet others have contractual guidelines.

The examination focused on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how the Company communicates its instructions and intentions to its staff, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determined whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then directed to those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Nevertheless, most areas are tested to see that the Company complies with West Virginia statutes and rules.

This examination report is a report by test rather than a report by exception. This means that all standards tested are described and the results indicated.

## **EXECUTIVE SUMMARY**

The market conduct examination of the Company began on September 20, 2010 and concluded on October 28, 2010. The examination covered forty-nine (49) standards from the 2009 NAIC Market Regulation Handbook. The Company passed forty-five (45) of these standards with three (3) of the passed standards being accompanied by recommendations for actions the Company could adopt to improve its operations. The remaining four (4) standards examined fell short of the error tolerance level established for this examination and therefore, the Company failed those standards. Of the four (4) failed standards, three (3) were related to Producer Licensing and one (1) was related to Underwriting and Rating.

The following list summarizes issues raised in this report:

- The Company's procedure for retaining terminated policy files is to retain only the final or most recent year. The Company does not retain the files in accordance with W. Va. Code St R §§ 114-15 *et seq.*
- The Company did not respond timely to one (1) complaint correspondence.
- The Company did not notify the WVOIC of all producer appointments and terminations for the exam period.
- The Company indicated the agency as producer of record rather than an appointed agent of the agency in accordance with the requirements of W. Va. Code §§ 33-12-18.
- The Company did not properly notify all producers upon termination of appointment.
- Terminated producer files did not always indicate reason for termination.
- The Company did not file rates for approval for all years under examination.

## **HISTORY AND PROFILE**

Delta Dental of West Virginia is a West Virginia non-profit corporation incorporated in 1962. Delta Dental of West Virginia has no employees. The Company is licensed as a dental service corporation in West Virginia and is regulated by the West Virginia Offices of the Insurance Commissioner. The Company sells and administers insured dental service contracts to group purchasers in West Virginia. The Company has a dental administration agreement with Delta Dental Insurance Company.

Delta Dental Insurance Company provides sales and administration of ASO dental service contracts for Delta Dental of West Virginia. The same agreement also is a management agreement with Delta Dental of Pennsylvania (DDP) under which DDP provides claims adjudication and other administrative services for Delta Dental of West Virginia.

## **METHODOLOGY**

This examination was based on the standards and tests for market conduct examinations of health insurers found in Chapter XVI and XX of the NAIC Market Regulation Handbook and in accordance with West Virginia statutes and rules.

Some of the standards were measured using a single type of review, while others used a combination or all types of review. The types of review used in this examination fall into three general categories: Generic, Sample, and Electronic.

A "Generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "Sample" review indicates that a standard was tested through direct review of a random sample of files using automated sampling software. For statistical purposes, an error tolerance level of 7% was used for claims and a 10% tolerance was used for other types of review. The sampling techniques used are based on a 95% confidence level.

An "Electronic" review indicates that a standard was tested through use of a computer program or routine applied to a download of computer records provided by the examinee. This type of review typically reviews 100% of the records of a particular type.

Standards were measured using tests designed to adequately measure how the Company met certain benchmarks. The various tests utilized are set forth in the NAIC Market Regulation Handbook for a health insurer. Each standard applied is described and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the NAIC Market Regulation Handbook are stated and contained within a bold border. In some cases, a standard is applicable to more than one phase of the examination. When that occurs, the reader is directed to the first occurrence of that standard for the results of testing, in order to avoid redundancy.

Each standard is accompanied by a "Comment" describing the purpose or reason for the standard. "Results" are indicated, examiner's "Observations" are noted, and in some cases, a "Recommendation" is made. Comments, Results, Observations and Recommendations are kept with the appropriate standard, except as noted above.

#### **A. COMPANY OPERATIONS/MANAGEMENT**

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to provide a view of how the Company is structured and how it operates and is not based on sampling techniques. Many troubled companies have become so because management has not been structured to adequately recognize and address problems that can arise. Well run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company to company, the absence of them or the ineffective application of them is often reflected in failure of the various standards tested throughout the examination. The processes usually include:

- A planning function where direction, policy, objectives and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and
- A reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operation

##### **Standard A 1**

**The company has an up-to-date, valid internal or external audit program.**

*NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 1.*

*W. Va. Code §§ 33-3-14, 33-33-3 & 33-33-4*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement as it pertains to annual audited financial statements. A company that has no audit function lacks the ready means to detect structural problems until problems have occurred. A valid internal or external audit function, and its use, is a key indicator of competency of management, which the Commissioner may consider in the review of an insurer.

**Results:** Pass

**Observations:** The Company's external and internal audit processes in effect during the exam period. The Company has written audit procedures and has an audit committee that meets regularly. The Board of Directors reviews reports on audits and reports from the audit committee. The Company's financial statements were audited in accordance with W. Va. Code §§ 33-3-14.

**Recommendations:** None

**Standard A 3**

*NAIC Market Regulation Handbook - Chapter XVI, § A, Standard 3.*

The regulated entity has antifraud initiatives in place that are reasonably calculated to detect, prosecute and prevent fraudulent insurance acts.

*W. Va. Code §§ 33-41-1 et seq.*

**Comments:** The review methodology for this standard is both generic and sample. The standard has a direct statutory requirement. Written procedural manuals or guides and antifraud plans should provide sufficient detail to enable employees to perform their functions in accordance with the goals and direction of management. Appropriate antifraud activity is important for asset protection, as well as policyholder protection, and is an indicator of the competency of management, which the Commissioner may consider in the review of an insurer. Further, the insurer has an affirmative responsibility to report fraudulent activities of which it becomes aware.

**Results:** Pass

**Observations:** The Company has a written antifraud plan. The plan includes education, detection, investigation, prosecution and recovery. The Company has procedures for reporting fraud to enforcement agencies including the WVOIC.

**Recommendations:** None

**Standard A 4**

*NAIC Market Regulation Handbook - Chapter XVI, § A, Standard 4.*

The regulated entity has a valid disaster recovery plan.

*W. Va. Code R 114-62 et seq*

**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. It is essential the Company have a formalized disaster recovery plan that details procedures for continuing operations in the event of any type of disaster.

Appropriate disaster recovery planning is an indicator of the competency of management, which the Commissioner may consider in the review of an insurer.

**Results:** Pass

**Observations:** The Company has a written comprehensive disaster recovery plan. The plan includes procedures for backup and recovery of data. The disaster recovery plan was deemed sufficient.

**Recommendations:** None

**Standard A 7**

*NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 7.*

**Records are adequate, accessible, consistent, and orderly and comply with state records retention requirements.**

*W. Va. Code §§ 33-2-9 & 33-11-4.9 ; W. Va. Code St R §§ 114-15-1 & 114-15-4*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, and complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

**Results:** Pass with Recommendation

**Observations:** Throughout the exam, records were reviewed to determine adequacy, accessibility, consistency and retention. Policy files were requested, but the Company was unable to provide the correct year. This is a procedural problem as the Company only retains the final year of the policy file when a group terminates coverage. The Company could not provide the correct policy year for seven (7) of sixty (60) renewal policy files.

Table A 7		Operations and Management				
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business	13	13	0	13	0	100%
Renewals	198	60	0	51	7	88%
Total	211	73	0	64	9	90%

**Recommendations:** The Company should adopt procedures to ensure contract files are maintained in accordance with W. Va. Code St R §§ 114-15 *et seq.*

**Standard A 8***NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 8.***The regulated entity is licensed for the lines of business that are being written.***W. Va. Code §§ 33-3-1 et. seq. & 33-24-5*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure the Company's operations are in conformance with its certificate of authority.

**Results:** Pass

**Observations:** The Company was a licensed Dental Service Corporation in the State of West Virginia during the period under examination.

**Recommendations:** None

**Standard A 9***NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 9.***The regulated entity cooperates on a timely basis with examiners performing the examination.***W. Va. Code § 33-2-9 & W. Va. Code St R § 114-15-1 et seq.*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is aimed at assuring that the Company is cooperating with the State in the completion of an open and cogent review of the Company's operations in West Virginia. Cooperation with examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing cost.

**Results:** Pass

**Observations:** The Company was cooperative during the examination and responded to the examiner's request timely.

**Recommendations:** None

**Standard A 12***NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 12.***The company has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.***W. Va. Code §§ 33-11-4(12) et seq. ; W. Va. Code St. R. §§ 114-57-1, et seq. & 114-62-1*

**Comments:** The review methodology for this standard is generic. The standard has a direct insurance statutory requirement. This standard is intended to assure that the Company provides adequate protection of information it holds concerning its policyholders and minimizes any improper intrusion into the privacy of applicants, policyholders, and claimants.

**Results:** Pass

**Observations:** The Company had formal written procedures for the management, collection, use and disclosure of information gathered in connection with insurance transactions to minimize the

risk of improper intrusion into the privacy of applicants, claimants and policyholders. No exceptions were noted in this review.

**Recommendations:** None

<b>Standard A 13</b> The company provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding the treatment of nonpublic financial information.	<i>NAIC Market Regulation Handbook— Chapter XVI, § A, Standard 13.</i> <i>W. Va. Code St. R. §§ 114-57-1, et seq.</i>
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**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that the Company provides adequate protection of information it holds concerning its policyholders and minimizes any improper intrusion into the privacy of applicants, policyholders, and claimants.

**Results:** Pass

**Observations:** The Company did provide privacy notices to its applicants and policyholders regarding the treatment of non-public information during the examination period. The privacy notice reviewed appears to comply with W. Va. State code and regulations. The Company does not maintain nonpublic financial information. No exceptions were noted in this review.

**Recommendations:** None

<b>Standard A 16</b> The company has policies and procedures in place so that nonpublic personal health information will not be disclosed except as permitted by law unless a customer or a consumer who is not a customer has authorized the disclosure.	<i>NAIC Market Regulation Handbook— Chapter XVI, § A, Standard 16.</i> <i>W. Va. Code St. R. §§ 114-57-1, et seq.</i>
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**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that the Company provides adequate protection of information it holds concerning its policyholders and minimizes any improper intrusion into the privacy of applicants, policyholders, and claimants.

**Results:** Pass

**Observations:** The Company had formal written procedures for the management, collection, use and disclosure of information gathered in connection with insurance transactions to minimize any improper intrusion into the privacy of applicants and policyholders. No exceptions were noted in this review.

**Recommendations:** None

<b>Standard A 18</b>	<i>NAIC Market Regulation Handbook— Chapter XVI, § A, Standard 18.</i>
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**All data required to be reported to departments of insurance is complete and accurate.**

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that the Company provides complete and accurate data to The West Virginia Offices of the Insurance Commissioner.

**Results:** Pass

**Observations:** All data required to be reported to the WVOIC was complete and accurate. The Company provided the examiners with a complete claim listing.

**Recommendations:** None

## **B. COMPLAINT HANDLING**

**Comments:** Evaluation of the standards in this business area is based on Company responses to various information requests and complaint files at the Company. Insurers are subject to W. Va. Code § 33-11-4 (Unfair Trade Practices Act) and therefore there are specific periods required for responses to complaints received at the Offices of the Insurance Commissioner. Some complaints become appeals and testing of appeals are included in Section H, "Grievance Procedures."

### **Standard B 1**

**All complaints are recorded in the required format on the Company compliant register.**

*NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 1.*

*W. Va. Code R § 114-14-5.3*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company records and maintains complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

**Results:** Pass

The entire population of twenty-two (22) complaints was tested. The population included seven (7) complaints received by the WVOIC, two (2) Office of Attorney General complaints and thirteen (13) internal complaints. The results were as follows:

Table B 1 - Complaint Sample Results					
Type	Population	N/A	Pass	Fail	% Pass
Complaints	22	0	22	0	100%
Total	22	0	22	0	100%

**Observations:** The W. Va. Code § 33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received since the date of its last examination." The statute also requires that, "this record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint." The definition of a complaint is "...any written communication primarily expressing a grievance." The Company maintained a complaint register which included WVOIC complaints, Office of the Attorney General complaints, and consumer direct complaints in accordance with the requirements of W. Va. Code § 33-11-4(10), no exceptions were noted.

**Recommendation:** None

<b>Standard B 2</b> The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.	<i>NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 2.</i> <i>W. Va. Code § 33-11-4(10) and W. Va. Code St R §§114-15-4.3(a)(4) &amp; 114-15-4.6</i>
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**Comments:** The review methodology for this standard is generic and sample. The standard does not have a direct regulatory requirement. The standard is concerned with whether the Company actions comply with the requirements under W. Va. Code § 33-11-4.

**Results:** Pass

**Observations:** The Company has developed a written plan for disposition of complaints, and it appeared adequate. Therefore, no exceptions were noted during testing of this standard.

**Recommendations:** None

<b>Standard B 3</b> The company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules, and regulations and policy language.	<i>NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 3.</i> <i>W. Va. Code § 33-11-4(10)</i>
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**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company takes adequate steps to resolve and finalize complaints.

**Results:** Pass

The entire population of twenty-two (22) complaints provided by the WVOIC, the Office of the Attorney General and the Company were reviewed. The results of testing are as follows:

Table B 3 - Complaint Sample Results
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Type	Population	N/A	Pass	Fail	% Pass
Complaints	22	0	22	0	100%
Total	22	0	22	0	100%

**Observations:** The Company took adequate steps to finalize and dispose of complaints in accordance with W. Va. Code § 33-11-4(10).

**Recommendation:** None

<b>Standard B 4</b>	<i>NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 4.</i>
<b>The time frame within which the Company responds to complaints is in accordance with applicable statutes, rules and regulations.</b>	
	<i>W. Va. Code § 33-11-4(10)</i>

**Comments:** The review methodology for this standard is sample. The standard does not have a direct statutory requirement; however, timeliness is inferred. In the case of complaints concerning claims, direct time requirements are found to be in regulation. This standard is concerned with whether the Company responded to complaints timely. West Virginia's complaint handling section uses a fifteen (15) working day standard for responses to complaints.

**Results:** Pass with recommendation

Table B 4 - Complaint Sample Results					
Type	Population	N/A	Pass	Fail	% Pass
Complaints	22	0	21	1	95%
Total	22	0	21	1	95%

**Observations:** The Company provided thirteen (13) internal complaints, two (2) Office of Attorney General complaints and seven (7) WVOIC complaints. The results of testing determined the thirteen (13) Company provided complaints and the two (2) Office of Attorney General complaints met the required timeline. The review of the seven (7) WVOIC complaint files determined that six (6) were responded to timely and one (1) was not.

**Recommendation:** It is recommended that the Company implement procedures to ensure complaints are responded to within fifteen (15) working days in compliance with W. Va. Code § 33-11-4(10).

## C. MARKETING AND SALES

**Comments:** The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to evaluate the representations made by the insurer about its product(s). It is not typically based on sampling techniques but can be. The areas to be

considered in this kind of review include all media (radio, television, videotape, etc.), written and verbal advertising and sales materials.

**Standard C 1**

*NAIC Market Regulation Handbook - Chapter XVI, § C, Standard 1.*

**All advertising and sales materials are in compliance with applicable statutes, rules and regulations.**

*W. Va. Code § 33-11-1 et seq. and W. Va. Code St R §114-10-1 et seq.*

**Comments:** Review methodology for this standard is generic and sample. The standard has a direct statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with all forms of media (print, radio, television, etc.).

**Results:** Pass

The entire population of thirty-three (33) marketing and sales material provided by the Company was reviewed. The results were as follows:

Table C 1 Marketing and Sales Results					
Type	Population	N/A	Pass	Fail	% Pass
Company Generated Advertising	33	0	33	0	100%
Agent Generated Advertising	0	0	0	0	N/A
Total	33	0	33	0	100%

**Observations:** The Company provided a copy of all marketing and sales materials used during the period under examination. Materials included annual reports, brochures, newsletters, rate cards, direct mailings, and advertisements. The examiners reviewed all of the Company's marketing and sales materials. The Company's website ([www.deltadentalins.com](http://www.deltadentalins.com)) was also reviewed.

**Recommendation:** None

**Standard C 2**

*NAIC Market Regulation Handbook - Chapter XVI, § C, Standard 2.*

**Company internal producer training materials are in compliance with applicable statutes, rules and regulations.**

*W. Va. Code § 33-11-1 et seq. and W. Va. Code St R §114-9-1 et seq.*

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with training or instructional representations made by the insurer to its producers.

**Results:** Pass

The Company provided three (3) internal producer-training materials, which were reviewed. The results are as follows:

Table C 2 Marketing and Sales Results					
Type	Population	N/A	Pass	Fail	%Pass
Internal Producer Training Materials	3	0	3	0	100%
Total	3	0	3	0	100%

**Observations:** The Company's producer training materials were reviewed and no exceptions were noted.

**Recommendation:** None

<b>Standard C 3</b> <b>Company communications to producers are in compliance with applicable statutes, rules and regulations.</b>	<i>NAIC Market Regulation Handbook - Chapter XVI, § C, Standard 3.</i> <i>W. Va. Code § 33-11-1 et seq. and W. Va. Code St R §114-9-1 et seq</i>
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**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with representations made by the insurer to its producers in other than a training mode.

**Results:** Pass

**Observations:** The Company uses e-mail to communicate with producers. The e-mails were informative rather than advertising and marketing communications. No exceptions were noted in this review.

**Recommendation:** None

#### D. PRODUCER LICENSING

**Comments:** The evaluation of these standards is based on review of the Insurance Commissioner's files and Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to test the Company's compliance with West Virginia producer licensing laws and rules.

<b>Standard D 1</b> <b>Company records of licensed and appointed producers agree with department of insurance records.</b>	<i>NAIC Market Regulation Handbook - Chapter XVI, § D, Standard 1.</i> <i>W. Va. Code § 33-12-18 and W. Va. Code St. R. §§ 114-2-1 et seq.</i>
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**Comments:** This standard has a direct statutory requirement. It is not file specific. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed. Such producers are presumed to have met the test to be qualified for such license. W. Va. Code § 33-12-3 states, "No person shall in West Virginia act as or hold himself out to be an agent, broker or solicitor nor shall any person in any manner solicit, negotiate, make or procure insurance covering subjects of insurance resident, located or to be performed in West Virginia, unless then licensed therefore pursuant to this article." W. Va.

Code § 33-12-3(d) states, "No insurer shall accept any business from or pay any commission to any individual insurance producer who does not then hold an appointment as an individual insurance producer for such insurer pursuant to this article."

**Results:** Pass with recommendation

**Observations:** The Company provided producer list was reconciled with the WVOIC producer list. Eleven (11) producers appeared on the WVOIC list as terminated and did not appear on the Company list as terminated. The Company producer list indicated seven (7) agents as terminated and there was no WVOIC record of these producers' appointment by the Company. There were eleven (11) producers indicated as appointed by the Company but were not listed as appointed in the WVOIC records.

**Recommendations:** The Company should notify the WVOIC of all producer appointments and terminations in compliance with W. Va. Code § 33-12-18 and W. Va. Code St. R § 114-2.

**Standard D 2**

*NAIC Market Regulation Handbook – Chapter XVI, § D, Standard 2.*

The producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken.

*W. Va. Code §§ 33-12-3 and 3-12-18*

**Comments:** This standard has a direct statutory requirement. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed for business solicited in West Virginia.

**Results:** Fail

Testing for this standard was conducted on the entire population of new and renewal business policies, the results were as follows:

Table D 2 Producer Licensing Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business Policies	13	13	0	12	1	92%
Renewal Policies	198	198	0	173	25	87%
Total	211	211	0	185	26	88%

**Observations:** The Company indicated that one (1) new business policy and twenty-five (25) renewal policies were processed, indicating the agency as producer of record and not an appointed agent of the agency.

**Recommendations:** The Company should appoint producer agents and not agencies, in compliance with W.V. Code § 33-12-18.

**Standard D 3**

*NAIC Market Regulation Handbook – Chapter XVI, § D, Standard 3.*

**Termination of producers complies with statutes regarding notification to the producer and notification to the state if applicable.**

*W. Va. Code § 33-12-25a and W. Va. Code St. R. §§ 114-02-1 et seq.*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. It is generally file-specific. This standard is aimed at both avoiding unlicensed placements of insurance as well as ensuring that producers are treated fairly with respect to terminations. W. Va. Code § 33-12-25 requires the Company to notify the Commissioner, on a form prescribed by the Commissioner, within thirty (30) days of terminating the producer's authority. The same code section further requires the producer to be notified simultaneously. Furthermore, W. Va. Code § 33-12-25 requires the Company to notify the Commissioner if the termination is for cause.

**Results:** Fail

Table D 3 Producer Licensing Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
Producer Terminations	26	26	0	12	14	46%
Total	26	26	0	12	14	46%

**Observations:** Twenty-six (26) terminated producer files were reviewed to determine if the Company was notifying the WVOIC on the required form, within thirty (30) days of termination and provided simultaneous notification to the producer. No producers were terminated for cause. The Company could not provide notification letters for fourteen (14) of the terminated producers. No exceptions were noted in the remaining twelve (12) terminated producers.

**Recommendations:** In cases of termination, all producers should be notified in writing in compliance with W. Va. Code § 33-12-25.

#### **Standard D 5**

*NAIC Market Regulation Handbook – Chapter XVI, § D, Standard 5.*

**Records of terminated producers adequately document reasons for terminations.**

*W. Va. Code § 33-12-25a and W. Va. Code St. R. §§ 114-15-1 et seq. & 114-2-1*

**Comments:** This standard has a direct statutory requirement. It is generally file specific. This standard is intended to aid in the identification of producers involved in unprofessional behavior that is harmful to the public. W. Va. Code § 33-12-25 provides, "(a) An insurer or authorized representative of the insurer that terminates the appointment, employment, policy or other insurance business relationship with a producer shall notify the Insurance Commissioner within thirty days following the effective date of the termination, using a format prescribed by the Insurance Commissioner ...Upon written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer....(d)(1) At the time of making the notification...the insurer shall simultaneously mail a copy of the notification to the producer at his or her last known address...."

**Results:** Fail

Table D 5 Producer Licensing Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
Producer Terminations	26	26	0	12	14	46%
Total	26	26	0	12	14	46%

**Observations:** Twenty-six (26) terminated producer files were reviewed to determine if the termination reason was properly documented. The Company could not provide notification letters for fourteen (14) of the terminated producers therefore the specific reason for the producer termination could not be verified. No exceptions were noted in the remaining twelve (12) terminated producer files.

**Recommendations:** The Company should document termination reasons in producer files in compliance with W. Va. Code § 33-12-25.

## E. POLICYHOLDER SERVICES

**Comments:** The evaluation of standards in this business area is based on review of Company responses to information requests, questions and interviews, presentations made to the examiner, files and file samples during the examination process. The policyholder service portion of the examination is designed to test a company's compliance with statutes regarding notice/billing, delays/no response, premium refund, and coverage questions.

<b>Standard E 1</b> <b>Premium notices and billing notices are sent out with an adequate amount of advance notice.</b>	<i>NAIC Market Regulation Handbook - Chapter XVI, § E, Standard 1.</i>
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**Comments:** Review methodology for this standard is generic, sample, and electronic. There is no direct statutory requirement. This standard is intended to provide insureds with information in a timely fashion so they can make informed decisions.

**Results:** Pass

A sample of sixty (60) policy files was reviewed to determine renewal handling and billing. The results of testing are as follows:

Table E 1 Policyholder Service Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
Underwriting Renewals	198	60	0	60	0	100%
Total	198	60	0	60	0	100%

**Observations:** Rate adjustments were calculated and discussed on the renewal rate calculation form. Policyholders were notified of rate changes approximately three (3) months prior to renewal in a renewal offer letter. Premium notices were timely and no exceptions were noted in this review.

**Recommendations:** None

**Standard E 2**  
**Policy issuance is timely.**

*NAIC Market Regulation Handbook - Chapter XVI, § E, Standard 2.*

**Comments:** Review methodology for this standard is generic, sample, and electronic. There is no direct statutory requirement. This standard is intended to provide insureds with information in a timely fashion so they can make informed decisions.

**Results:** Pass

Testing for this standard was performed based on the entire population of thirteen (13) new business policy files and a sample of sixty (60) underwriting renewal policy files. The results of testing are as follows:

Table E 2 Policyholder Services - Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business	13	13	0	13	0	100%
Renewals	198	60	0	60	0	100%
Total	211	73	0	73	0	100%

**Observations:** There were no exceptions regarding timeliness of the issuance of new business policies.

**Recommendations:** None

**Standard E 3**

**All correspondence directed to the regulated entity is answered in a timely and responsive manner by the appropriate department.**

*NAIC Market Regulation Handbook - Chapter XVI, § E, Standard 3.*

**Comments:** Review methodology for this standard is generic, sample, and electronic. There is no direct statutory requirement. This standard is intended to provide insureds with information in a timely fashion so they can make informed decisions.

**Results:** Pass

**Observations:** Testing of correspondence was conducted in association with files sampled for testing throughout the examination process. The correspondence directed to the Company was answered in a timely and responsive manner by the appropriate department. No exceptions were noted in this review.

**Recommendations:** None

**Standard E 5***NAIC Market Regulation Handbook - Chapter XVI, § E, Standard 5.***Policy transactions are processed accurately and completely.**

**Comments:** Review methodology for this standard is generic and sample. There is no direct statutory requirement. The focus of this standard is to assure that policy transactions are handled appropriately.

**Results:** Pass

Testing for this standard was performed based on the entire population of thirteen (13) new business policy files and a sample of sixty (60) underwriting renewal policy files. The results of testing are as follows:

Table E 5 Policyholder Services - Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business	13	13	0	13	0	100%
Renewals	198	60	0	60	0	100%
Total	211	73	0	73	0	100%

**Observations:** Testing determined the Company was completing transactions accurately. Therefore, no exceptions were noted during testing of this standard.

**Recommendations:** Pass

**Standard E 6***NAIC Market Regulation Handbook - Chapter XVI, § E, Standard 6.***Reasonable attempts to locate missing policyholders or beneficiaries are made.**

**Comments:** Review methodology for this standard is generic and sample. There is no direct statutory requirement. The focus of this standard is to assure the Company makes a reasonable effort to locate policyholders due money.

**Results:** Pass

**Observations:** Seven (7) cases of unclaimed property were reported to the WVOIC. The Company made a reasonable attempt to return the money to the beneficiary. There were no exceptions noted in this review.

**Recommendations:** None

**Standard E 7***NAIC Market Regulation Handbook - Chapter XVI, § E, Standard 7.***Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules, and regulations.***W. Va. Code § 33-6C-7*

**Comments:** Review methodology for this standard is generic and sample. There is no direct statutory requirement. This standard is intended to provide insureds with the proper amount of premium refund upon cancellation, in a timely manner.

**Results:** Pass

**Observations:** The Company did not cancel policies. If the Company terminated coverage, it did so at renewal. No exceptions were noted in testing this standard.

**Recommendations:** None

## **F. UNDERWRITING AND RATING**

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, presentations made to the examiner, files and file samples. The underwriting and rating practices portion of the examination is designed to provide a view of how the Company treats the public and whether that treatment complies with applicable statutes and rules. It is typically determined by testing a random sample of files and applying various tests to those files. These standards are concerned with compliance issues.

### **Standard F 1**

**The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company-rating plan.**

*NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 1.*

*W. Va. Code § 33-16b-1 et seq. 33-16d-1*

**Comments:** This standard has a direct statutory requirement. It is file-specific. It is necessary to determine if the Company complies with the rating systems that have been filed with and approved by the WVOIC. Wide scale application of incorrect rates by a company may raise financial solvency questions or be indicative of inadequate management oversight. Deviation from established rating plans may also indicate a company is engaged in unfair competitive practices.

**Results:** Fail

**Observations:** An RFI was submitted to the Company requesting the approved rates for the examination period. The Company's response indicated that a previous rate filing was being utilized and was notated in the filing regarding the transfer of policies from Delta Dental Insurance Company to Delta Dental of West Virginia. During the review of the filing the examiner noticed a Pure Rate sheet. A discussion with the Company was held and the Company indicated that the Pure Rate sheet was reviewed and updated. The Company agreed that the Pure Rate sheet should have been submitted to the WVOIC for prior approval. The Company also indicated the methodology and factors had not changed from the previous approved filing. The Company did not file for prior approval the updated Pure Rate sheets for 2006, 2007 and 2009.

**Recommendations:** The Company should comply with W. Va. Code § 33-24-6(c) and file the rates for prior approval.

**Standard F 2**

NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 2.

All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.

W. Va. Code §§ 33-2-9 &amp; 33-6-8 et seq.

**Comments:** This standard has a direct statutory requirement. It is necessary to provide insureds with appropriate disclosures, both mandated and reasonable. Without appropriate disclosures, insureds find it difficult to make informed decisions.

**Results:** Pass

Testing for this standard was performed on the entire population of thirteen (13) new business policy files and a sample of sixty (60) underwriting renewal policy files. The results of testing are as follows:

Table F 2 Underwriting and Rating Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business	13	13	0	13	0	100%
Renewals	198	60	0	60	0	100%
Total	211	73	0	73	0	100%

**Observations:** Underwriting files were sufficiently documented to include all mandated disclosures. No exceptions were noted in this review.

**Recommendations:** None

**Standard F 3**

NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 3.

The Company does not permit illegal rebating, commission cutting or inducements.

W. Va. Code §§ 33-11-4, 33-12-23, 33-16D-4

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct statutory requirement. It is generally file specific. Illegal rebating, commission cutting or other illegal inducements are a form of unfair discrimination.

**Results:** Pass

Testing for this standard was performed on the entire population of thirteen (13) new business policy files and a sample of sixty (60) underwriting renewal policy files. The results of testing are as follows:

Table F 3 Underwriting and Rating Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business	13	13	0	13	0	100%
Renewals	198	60	0	60	0	100%
Total	211	73	0	73	0	100%

**Observations:** The underwriting files and commissions paid were reviewed and it was determined there was no indication of rebating, commission cutting or inducements.

**Recommendations:** None

**Standard F 4** *NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 4.*  
**The Company's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and regulated entity guidelines in the selection of risks.**  
*W. Va. Code §§ 33-2-9, 33-16D-4 & 7, 33-16D-4(b) & 33-15-2d*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. Insurers must treat all employers and members the same within the same class to ensure no unfairly discriminatory practices occur.

**Results:** Pass

The Company's underwriting guidelines including the application and declination procedures were reviewed. In addition, testing for this standard was performed on the entire population of thirteen (13) new business policy files and a sample of sixty (60) underwriting renewal policy files. The results of testing are as follows:

Table F 4 Underwriting and Rating Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
New Business	13	13	0	13	0	100%
Renewals	198	60	0	60	0	100%
Total	211	73	0	73	0	100%

**Observations:** The review of the underwriting guidelines and underwriting files did not indicate any unfair discriminatory practices. Therefore, no exceptions were noted in the testing of this standard.

**Recommendations:** None

**Standard F 5** *NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 5.*  
**All forms, including contracts, riders, endorsement forms and certificates, are filed with the department of insurance, if applicable.**  
*W. Va. Code §§ 33-6-8, 33-29-5 & 33-15-2*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. An insurer is not to issue policies, forms or endorsements that have not been filed with, and approved by the WVOIC.

**Results:** Pass

**Observations:** Testing was completed to determine if the Company's forms and endorsements had been filed with the WVOIC, and where required, determine that either prior approval had been obtained or that the applicable waiting periods following the filing had been met. The Company provided a listing and copies of the forms utilized including policies, endorsements and applications used during the period under examination and the date of approval by the WVOIC. There were no forms found during testing which had not received the WVOIC's approval. No exceptions were noted during testing of this standard.

**Recommendations:** None

<b>Standard F 7</b> <b>Rejections and declinations are not unfairly discriminatory.</b> <i>W. Va. Code §§ 33-2-9, 33-16-D4 &amp; W. Va. Code St. R. §§ 114-15-4.3(b), 114-54-9.1(a)</i>	<i>NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 7.</i>
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**Comments:** Review methodology for this standard is sample and generic. This standard has a direct statutory requirement. W. Va. Code St. R. § 114-15-4.3(b) states an insurer shall maintain all declined application files. Insurers must maintain copies of all communications associated with an application for coverage.

**Results:** Pass

Testing for this standard was performed based on sampling of the total population of five (5) declined files. The results of testing are as follows:

Table F 7 Underwriting and Rating Sample Results						
Type	Population	Sample	N/A	Pass	Fail	% Pass
Declinations	5	5	0	5	0	100%
Total	5	5	0	5	0	100%

**Observations:** All declination reasons were properly documented, no exceptions were noted in the review of declined policy sample.

**Recommendation:** None

<b>Standard F 8</b> <b>Cancellation/nonrenewal, discontinuance and declination notices comply with policy provisions, state laws and the regulated entity's guidelines.</b> <i>W. Va. Code §§ 33-2-9, 33-16D-8 &amp; § 114-54-6, 114-15-4</i>	<i>NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 8.</i>
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**Comments:** Review methodology for this standard is sample and generic. This standard has a direct statutory requirement. W. Va. Code § 33-16D-8, W. Va. Code St. R. § 114-54-6 and HIPAA provide that small and large group health plans are guaranteed renewable. The employer may terminate coverage at any time, but an insurer may only terminate coverage if the employer fails to pay the premium, fails to maintain contributions or participation in compliance with the insurer's guidelines, commits fraud or an intentional misrepresentation of a material fact or in the case of a network plan, the health carrier no longer has any enrollees in the service area. The insurer is also allowed to terminate coverage when it discontinues group health plans of a

particular type, if it does so for all employers covered under that group health plan type, or it ceases to offer products in certain markets, as long as the insurer complies with the mandatory requirements for doing such.

**Results:** Pass

**Observations:** The Company provided one (1) company initiated non-renewal for the exam period. The non-renewal was for participation reasons and in accordance with the Company's underwriting guidelines.

**Recommendations:** None

**Standard F 9**

*NAIC Market Regulation Handbook – Chapter XVI, § F, Standard 9.*

**Rescissions are not made for non-material misrepresentation.**

*W. Va. Code §§ 33-2-9, 33-6-7 & 33-16-31*

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct statutory requirement. The intent is to ensure rescission of coverage occurs only when it is determined that material information required for an underwriter to make an adequate assessment of risk, was not provided to the insurer.

**Results:** Pass

**Observations:** The Company did not rescind any policies during the exam period.

**Recommendations:** None

## **G. CLAIMS PRACTICES**

**Comments:** The evaluation of standards in this business area is based on the Company's responses to informational items requested by the examiner, discussions with Company staff, electronic testing of claim databases, and file sampling during the examination process. This portion of the examination is designed to provide a view of how the company treats claimants and whether that treatment complies with applicable statutes, rules and regulations.

**Standard G 1**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 1.*

**The initial contact by the company with the claimant is within the required timeframe..**

*W. Va. Code § 33-11-4(9)(b); W. Va. Code St. R. § 114-14-5.1*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard derives directly from W. Va. Code § 33-11-4(9) (b) which prohibits, "failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies." West Virginia requires responses to claim communications within fifteen (15) working days of receipt of the communication.

**Results:** Pass

Random samples of 107 paid claim files and 107 closed without payment (CWOP) files were selected for detail testing. The results of the testing were as follows:

Table G 1 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Claims Closed Without Pay (CWOP)	279,336	107	0	107	0	100%
Total	1,025,657	214	0	214	0	100%

**Observations:** The Company indicated that most electronic claims are automatically adjudicated by the electronic claim handling system. Those claims not automatically handled are sent to a suspend status in which the claim is manually handled to verify information. Testing determined that initial contact by the Company with the claimant was within the required timeframe. No exceptions were noted in the review.

**Recommendations:** None

**Standard G 2**

**Timely investigations are conducted.**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 2.*

*W. Va. Code § 33-11-4(9)(c) & W. Va. Code St. R. § 114-14-6*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. W. Va. Code § 33-11-4(9)(c) states it is an unfair practice to fail to adopt and implement reasonable standards for the prompt investigation of claims.

**Results:** Pass

Random samples of 107 paid claim files and 107 closed without payment (CWOP) files were selected for detail testing. The results of the testing were as follows:

Table G 2 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Claims Closed Without Pay (CWOP)	279,336	107	0	107	0	100%
Total	1,025,657	214	0	214	0	100%

**Observations:** Testing determined the Company's investigations met with timeliness requirements for all files. No exceptions were noted in this review.

**Recommendations:** None

**Standard G 3**  
**Claims are resolved in a timely manner.**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 3.*

*W. Va. Code § 33-45-2a & W. Va. Code St. R. § 114-14-6.7*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Failure to resolve claims timely can result in a migration of providers from the network with resultant disruption of service to members. W. Va. Code § 33-45-2 requires claim resolution or written explanation within thirty (30) days of receipt of claim if submitted electronically and forty (40) days of receipt of claim if submitted by other means.

**Results:** Pass

Random samples of 107 paid claim files and 107 closed without payment (CWOP) files were selected for detail testing. The results of the testing were as follows:

Table G 3 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Claims Closed Without Pay (CWOP)	279,336	107	0	107	0	100%
Total	1,025,657	214	0	214	0	100%

**Observations:** Testing determined the Company resolved all claims within thirty (30) days. No exceptions were noted in this review.

**Recommendations:** None

**Standard G 4**  
**The regulated entity responds to claim correspondence in a timely manner.**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 4.*

*W. Va. Code § 33-45-2 & 33-11-4(9b) & W. Va. Code St. R. 114-14-5*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard does not have a direct statutory requirement.

**Results:** Pass

**Observations:** Most claimant correspondence is received by telephone. In testing of the paid and closed without payment claim files it was determined that correspondence was responded to timely and in accordance with state requirements. No exceptions were noted in this review.

**Recommendations:** None

**Standard G 5**  
**Claim files are adequately documented.**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 5.*

*W. Va. Code § 33-45-2 & W. Va. Code St. R. 114-15-1.1(b) & 4.4 & 114-14-3*

**Comments:** Review methodology for this standard is generic and sample. This standard does not have a direct statutory requirement.

**Results:** Pass

Random samples of 107 paid claim files and 107 closed without payment (CWOP) files were reviewed to determine if file documentation was sufficient to support the decisions made. The results of the testing were as follows:

Table G 5 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Claims Closed Without Pay (CWOP)	279,336	107	0	107	0	100%
Total	1,025,657	214	0	214	0	100%

**Observations:** The Company handles claims with an electronic claim system. The system contains the claim form, procedures performed, provider and coverages. The claim system automatically verifies coverage. Claim payments and policy coverages were verified in claim testing. The documentation supported the decisions made.

**Recommendations:** None

#### Standard G 6

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 6.*

**Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.**

*W. Va. Code §§ 33-45-2 & W. Va. Code St. R. 114-14-6 et seq.*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. An insurer must provide claim handling in compliance with its provider contracts as governed under, and in compliance with W. Va. Code § 33-45-2.

**Results:** Pass

Random samples of 107 paid claim files were selected for detail testing. The results of the testing were as follows:

Table G 6 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Total	746,321	107	0	107	0	100%

**Observations:** Testing determined that claims were properly handled in accordance with policy provisions and applicable statutes, rules and regulations. Claims were paid timely; no exceptions were noted in this review.

**Recommendations:** None

**Standard G 7**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 7.*

**Company claim forms are appropriate for the type of product.**

*W. Va. Code § 33-11-4(9)*

**Comments:** Review methodology for this standard is generic. This standard does not have a direct statutory requirement.

**Results:** Pass

Random samples of 107 paid claim files and 107 closed without payment (CWOP) were selected for detail testing. The claim forms were reviewed for appropriateness. The results of the testing were as follows:

Table G 7 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Claims Closed Without Pay (CWOP)	279,336	107	0	107	0	100%
Total	1,025,657	214	0	214	0	100%

**Observations:** The Company receives claims in electronic and paper format. The claim form used is appropriate for dental claims. There were no exceptions noted during testing of this standard.

**Recommendations:** None

**Standard G 9**

*NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 9.*

**Denied and closed-without-payment claims are handled in accordance with policy provisions, HIPAA and West Virginia law.**

*W. Va. Code §§ 33-45-2, 33-11-4(9) & W. Va. Code St. R. § 114-14-6.7*

**Comments:** Review methodology for this standard is sample and electronic. This standard has an indirect statutory requirement. An insurer must provide claim handling in compliance with its provider contracts as governed under W. Va. Code § 33-45-2.

**Results:** Pass

A random sample of 107 closed without payment (CWOP) claim files was selected for detail testing. The results of the testing were as follows:

Table G 9 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Claims Closed Without Pay (CWOP)	279,336	107	0	107	0	100%
Total	279,336	107	0	107	0	100%

**Observations:** Reasons for closed without payment claims appeared reasonable including claimant maximum benefit met, below deductible, duplicate paid under another claim and claim paid under a different procedure code.

**Recommendations:** None

<b>Standard G 10</b>	<i>NAIC Market Regulation Handbook - Chapter XVI, § G, Standard 10.</i>
<b>Canceled benefit checks and drafts reflect appropriate claim handling practices.</b>	<i>W. Va. Code § 33-45-2</i>

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct statutory requirement.

**Results:** Pass

Random samples of 107 paid claim files were selected for detail testing. The results of the testing were as follows:

Table G 10 Claims Sample Results						
Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid Claims	746,321	107	0	107	0	100%
Total	746,321	107	0	107	0	100%

**Observations:** The Company's claims payments were completed by check or electronic fund transfer. Claim payments were made to providers on a billing basis and to claimants on a reimbursement basis. The claims tested indicated checks were for the proper amount and were timely. There were no exceptions noted in the testing of this standard.

**Recommendations:** None

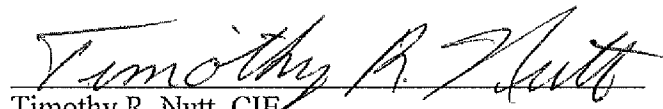
## **LIST OF RECOMMENDATIONS**

1. The Company should adopt procedures to ensure policy files are maintained in accordance with W. Va. Code St R §§ 114-15 *et seq.*
2. The Company should implement procedures to ensure that all complaints are responded to within fifteen (15) working days in compliance with W. Va. Code § 33-11-4(10).
3. The Company should notify the WVOIC of all producer appointments and terminations in compliance with W. Va. Code § 33-12-18 and W. Va. Code St. R § 114-2.
4. The Company should appoint producer agents and not agencies, in compliance with W.V. Code § 33-12-18.
5. In cases of termination, the terminated producers should be notified in writing in compliance with W. Va. Code § 33-12-25.
6. The Company should document termination reasons in all producer files in compliance with W. Va. Code § 33-12-25.
7. The Company should file the rates to be charged for prior approval in accordance with W. Va. Code § 33-24-6(c).

## EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination.

In addition to the undersigned, Robert Parsons, MCM and Charles Jewell, MBA, CPCU, ARM, LUTCF, also participated in the examination.

  
Timothy R. Nutt, CIE  
Examiner in Charge

**EXAMINER'S AFFIDAVIT**

**State of West Virginia**

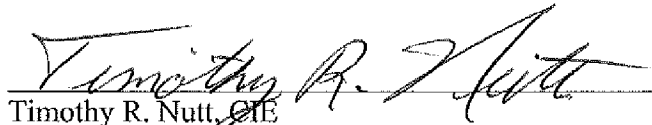
**County of Kanawha**

**EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES  
USED IN AN EXAMINATION**

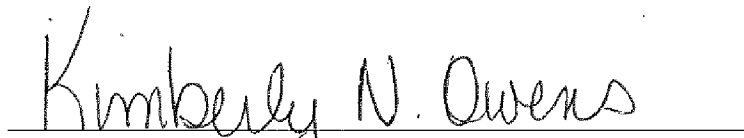
I, Timothy R. Nutt, being duly sworn, state as follows:

1. I have the authority to represent West Virginia in the examination of Delta Dental of West Virginia.
2. I have reviewed the examination work papers and examination report, and determined the examination of Delta Dental of West Virginia was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

  
Timothy R. Nutt, CFE  
Examiner in Charge

Subscribed and sworn before me by Timothy R. Nutt on this 30<sup>th</sup> day of MARCH, 2011.

  
Notary Public

My commission expires March 31, 2014